UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

OTIS MAYS,)
Plaintiff,)
v.) Case No. CIV-21-992-G
GRADY COUNTY LAW ENFORCEMENT CENTER et al.,)
Defendants.)

ORDER

Plaintiff Otis Mays, a federal prisoner appearing pro se, initiated this civil rights action on September 29, 2021. In accordance with 28 U.S.C. § 636(b)(1), the action was referred to Magistrate Judge Suzanne Mitchell for initial proceedings.

On November 17, 2021, Judge Mitchell granted Plaintiff's Application for Leave to Proceed *In Forma Pauperis* (Doc. No. 13). *See* Order of Nov. 17, 2021 (Doc. No. 14). Judge Mitchell found that, pursuant to 28 U.S.C. § 1915(b)(1), Plaintiff was required to submit an initial partial filing fee of \$16.10, with monthly payments to follow thereafter. *See id.* at 1-2; 28 U.S.C. § 1915(b)(1), (2). Plaintiff was ordered to pay this initial partial filing fee no later than December 8, 2021. *See* Order of Nov. 17, 2021, at 2.

At Plaintiff's request, this deadline was continued to December 27, 2021. *See* Order of Dec. 6, 2021 (Doc. No. 19). No payment or other submission was received by the Court as of that date, however.

Judge Mitchell therefore issued a Report and Recommendation ("R. & R.," Doc. No. 20), recommending that this action be dismissed based upon Plaintiff's failure to

submit the \$16.10 partial filing fee as ordered. *See id.* at 3-4; *see also* LCvR 3.4(a). In the R. & R., Judge Mitchell advised Plaintiff of his right to object to the R. & R. by January 27, 2022. Judge Mitchell also advised that a failure to timely object would constitute a waiver of the right to appellate review of the factual findings and legal conclusions contained in the R. & R. *See* R. & R. at 4.

As of this date, Plaintiff has not objected to the R. & R. or sought an extension of time to do so. Nor has Plaintiff submitted his required partial filing fee to the Court or shown cause for his failure to do so.

CONCLUSION

Accordingly, the Report and Recommendation (Doc. No. 20) is ADOPTED.¹ This matter is DISMISSED WITHOUT PREJUDICE. A separate judgment shall be entered.

IT IS SO ORDERED this 3rd day of March, 2022.

Charles B. GOODWIN
United States District Judge

¹ Although the R. & R. recommended that the Court allow an additional 21 days for payment, the applicable local rule prescribes that the matter "shall" be dismissed upon the failure of the *in forma pauperis* applicant "to pay the initial partial filing fee . . . by the date specified." LCvR 3.4(a). Moreover, Plaintiff has had ample opportunity to comply with the payment requirement. The Court therefore modifies the recommended disposition to dismiss this action without further delay.